

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Moses Smalls,)
) C/A No. 9:10-0421-MBS
Plaintiff,)
)
vs.)
) **O R D E R**
Dorchester County Sheriff's Department)
and Deputy John Michael Moyer,)
)
Defendants.)
-----)

Plaintiff Moses Smalls, appearing pro se and in forma pauperis, filed a complaint pursuant to 42 U.S.C. § 1983 on February 22, 2010. Plaintiff alleges that Defendant John Michael Moyer subjected him to excessive force during an investigation of a domestic disturbance at Plaintiff's residence. Plaintiff contends that Defendant Dorchester County Sheriff's Office did not adequately check into Defendant Moyer's background. Plaintiff seeks damages for injuries and medical costs.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., the within action was referred to United States Magistrate Judge Bristow Marchant. On September 27, 2010, Defendants filed a motion for summary judgment. On September 28, 2010, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Plaintiff was advised of the summary judgment procedures and the possible consequences of failing to respond adequately. Plaintiff filed a response in opposition to Defendants' motion on November 17, 2010, to which Defendants filed a reply on January 11, 2011. On February 16, 2011, the Magistrate Judge issued a Report and Recommendation in which he recommended that Defendants' motion for summary judgment be granted. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Defendants’ motion for summary judgment (ECF No. 22) is **granted** and the case dismissed, with prejudice.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

March 17, 2011.